REMARKS

Claims 1-8 are pending in this application. Claims 6 and 7 have been canceled. Accordingly, upon entry of this amendment, claims 1-5 and 8 will be pending.

Any amendments to and/or cancellation of the claims are not to be construed as an acquiescence to any of the rejections set forth in the instant Office Action, and were done solely to expedite prosecution of the application. Applicants hereby reserve the right to pursue the subject matter of the claims as originally filed in this or a separate application(s).

No new matter has been added. Any amendments to and/or cancellation of the claims was done solely to more particularly point out and distinctly claim the subject matter of Applicants' invention in order to expedite the prosecution of the application. Applicants reserve the right to pursue the claims as originally filed in this or a separate application(s).

Election/Restriction

The Examiner has required restriction between the following inventions in the above-identified application:

I. Claim(s) 1, 8 in part, drawn to a protein, and a kit containing that protein, classified in class 530, subclass 350.

II. Claims 2-5, 8 in part, drawn to polynucleotides, vectors and host cells, and a kit containing that DNA, vector, and host cell, classified in class 435, subclass 69.1, 320.1, and class 536, subclass 23.4.

III. Claim 6, drawn to an antibody, classified in class 530, subclass 387.1.

IV. Claim 7, drawn to a screening method, classified in class 435, subclass 7.1.

The Examiner states that "[t]he inventions are distinct, each from the other because of the following reasons:

> [t]he polypeptides of Invention I are related to the polynucleotides of Invention II in that they are encoded thereby and the antibody

> of Invention III in that they are the cognate antigen. However, each group differs from each other group structurally and functionally.

The Examiner is also of the opinion that "Inventions I and II are directed to products that are distinct both physically and functionally, are not required one for the other, and are therefore patentably distinct" and that "although the antibody of Invention III is directed to an antigen encoded by the nucleotides of Invention II, they are distinct structurally and functionally and cannot be used together or interchangeably."

The Examiner is further of the opinion that "Inventions I and IV are related as product and process of use", however, "the protein of Invention I can be used for other purposes than in a screening method, such as generation of antibodies.

The Examiner also states that "[t]he polynucleotides of Invention II are distinct and unrelated to the method of screening for a ligand, agonist or antagonist to an adiponectin receptor recited in Invention IV" and that "[t]he antibody of Invention III is unrelated to the screening method of Invention IV."

Furthermore, the Examiner has also required further restriction of the present invention under 35 U.S.C. 121. Specifically, the Examiner states that

> [e]ach of SEQ ID NOs is a unique and separately patentable sequence, requiring a unique search of the prior art. Searching all of the sequences in a single patent application would constitute an undue search burden on the examiner and the USPTO's resources because of the non-coextensive nature of these searches

In order to be considered responsive to the instant Office Action, Applicants' hereby elect Group I (claims 1 and 8, in part) drawn to proteins and a kit without traverse. In addition, Applicants elect the protein set forth in SEQ ID NO:2, ***with traverse.*** Applicants traverse the restriction requirement to the extent that restriction among SEQ ID NOs:2, 4, 6, and 8 should not be made.

Applicants have presented an allowable generic linking claim, claim 1, which embraces human and murine AdipoR1 proteins (SEQ ID NO:s 2 and 4, respectively) and human and murine AdipoR2 protein molecules (SEQ ID NO:s 6 and 8,

respectively). It is Applicants position that given the presence of claim 1, which links the species of SEQ ID NOs:2, 4, 6, and 8, a restriction under 35 U.S.C. §121 is improper. Applicants respectfully submit that while a species election may be proper between AdipoR1 protein molecules and AdipoR2 proteins molecules for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable, an election under 35 U.S.C. §121 as proposed by the Examiner is improper since the claims are linked by an allowable generic linking claim, claim 1. AdipoR1 (SEQ ID NO:s 2 and 4) and AdipoR2 proteins (SEQ ID NO:s 6 and 8) are connected in design, operation, and effect (M.P.E.P. §808.01). Adipo R1 and Adipo R2 proteins are both integral membrane proteins with seven transmembrane domains in which the N-terminus is within the membrane and the C-terminus is outside the membrane. Both molecules bind to adiponectin. In addition, as taught in the specification, AdipoRl and AdipoR2 are extremely similar structurally, with 66.7% homology between the amino acid sequences of mouse AdipoRl and AdipoR2. Accordingly, it is Applicants position that the Markush group of claim 1 is proper. Accordingly, Applicants hereby request that the inventions comprising SEQ ID NOs:2, 4, 6, and 8 be combined into a single Group.

Applicants further note that murine and human AdipoR1 protein molecules and murine and human AdipoR2 protein molecules are also connected in design, operation, and effect (M.P.E.P. §808.01). In particular, human (SEQ ID NO:2) and mouse (SEQ ID NO:6) AdipoRl are 96.8% identical at the amino acid level, while human (SEQ ID NO:4) and mouse (SEQ ID NO:8) AdipoR2 molecules are 95.2% identical at the amino acid level.

It is Applicants' position that while a species election may be proper among the species of SEQ ID NO:s 2, 4, 6, and 8 for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable, an election under 35 U.S.C. §121 is improper since the claims are linked by an allowable generic linking claim. Claim 1 embraces the species of adiponectin receptors shown in SEQ ID NO:s 2, 4, 6, and 8. If a species election is required, Applicants further provisionally elect the species of ***AdipoR1*** protein molecules (SEQ ID NOs:2 and 4) for search purposes.

Should a further election be required, Applicants further provisionally elect the species of ***human AdipoR1*** protein molecules (SEQ ID NO:2) for search purposes.

It is Applicants' understanding that the search will be extended to the remaining species upon a finding of allowability.

It is further Applicants' understanding that, according to the Examiner's indication, "[c]laim 8 link(s) Inventions I and II. The restriction requirement between Inventions I and II, the linked inventions is subject to the non-allowance of the linking claim(s), claim 8. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application."

Applicants reserve the right to traverse the above restriction with respect to non-elected Groups II, III, and IV in this or subsequent applications.

CONCLUSION

If a telephone conversation with Applicants' Attorney would expedite the prosecution of the above-identified application, the Examiner is urged to call Applicants' Attorney at (617) 227-7400.

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Respectfully submitted,

By _____

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